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14 Attorneys for Plaintiff,
15 Patricia Wade

16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE DISTRICT OF ARIZONA

18 Patricia Wade,

19 Plaintiff,

20 vs.

21 Edgewater Consulting Group, LLC; and
22 DOES 1-10, inclusive,

23 Defendants.
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Case No.:

COMPLAINT

JURY TRIAL DEMANDED

1 For this Complaint, the Plaintiff, Patricia Wade, by undersigned counsel, states
2 as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), repeated violations of
7 the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq., and the invasions of
8 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
9 collect a consumer debt.
10

11 2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331,
12 1367.
13

14 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
15 Defendants transact business here and a substantial portion of the acts giving rise to
16 this action occurred here.
17

18 **PARTIES**

19 4. The Plaintiff, Patricia Wade (hereafter "Plaintiff"), is an adult individual
20 residing in Christmas Valley, Oregon, and is a "consumer" as the term is defined by
21 15 U.S.C. § 1692a(3).
22

23 5. The Defendant, Edgewater Consulting Group, LLC (hereafter "ECG"), is an
24 Arizona company with an address of 2205 E. Speedway Boulevard, Tucson, Arizona
25 85719, operating as a collection agency, and is a "debt collector" as the term is
26 defined by 15 U.S.C. § 1692a(6).
27
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1 6. Does 1-10 (the “Collectors”) are individual collectors employed by ECG and
2 whose identities are currently unknown to the Plaintiff. One or more of the Collectors
3 may be joined as parties once their identities are disclosed through discovery.
4

5 7. ECG at all times acted by and through one or more of the Collectors.
6

7 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

8 **A. The Debt**

9 8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to the United
10 States Department of Education (the “Creditor”).
11

12 9. The Debt arose from services provided by the Creditor which were primarily
13 for family, personal or household purposes and which meets the definition of a “debt”
14 under 15 U.S.C. § 1692a(5).
15

16 10. The Debt was purchased, assigned or transferred to ECG for collection, or ECG
17 was employed by the Creditor to collect the Debt.
18

19 11. The Defendants attempted to collect the Debt and, as such, engaged in
20 “communications” as defined in 15 U.S.C. § 1692a(2).
21

22 **B. ECG Engages in Harassment and Abusive Tactics**

23 12. Within the last four years, ECG contacted Plaintiff in an attempt to collect the
24 Debt by placing numerous calls Plaintiff’s residential telephone and Plaintiff’s various
25 cellular telephones.
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1 13. Within the last four years, Plaintiff has had at least three different cellular
2 telephone numbers, all of which ECG has contacted repeatedly.

3
4 14. ECG contacted Plaintiff on her cellular telephone using an automated telephone
5 dialing system ("ATDS") and/or by using an artificial or prerecorded voice (hereafter
6 "Robocalls").

7
8 15. Plaintiff never provided any of her cellular telephone numbers to Creditor and
9 never provided her consent to be contacted at any of her cellular telephone numbers.

10
11 16. Some of ECG's Robocalls began with a period of silence, after which a live
12 representative would come on the line, or the line would begin ringing, as if Plaintiff
13 had placed the call to ACT.

14
15 17. On several instances, ECG's Robocalls would terminate when Plaintiff
16 answered the call, much to her annoyance.

17
18 18. On several instances, upon answering each of ECG's telephone calls, Plaintiff
19 heard a prerecorded message.

20
21 19. Within the last year, ECG placed calls as early as 7:00 a.m. to Plaintiff's
22 cellular telephone.

23 20. Also within the last year, ECG threatened that if Plaintiff did not provide
24 contact information for a relative or friend, ECG would garnish Plaintiff's Social
25 Security disability income.
26

1 21. ECG, however, did not have the present ability to affect immediate garnishment
2 of Plaintiff's wages without first providing Plaintiff with proper notice.

3
4 22. On at least one occasion within the last year, Plaintiff requested that ECG cease
5 calling as she could not provide the requested information to ECG.

6
7 23. Despite Plaintiff's request, ECG continued to hound Plaintiff with telephone
8 calls in its collection efforts.

9
10 24. Moreover, ECG failed to send Plaintiff written validation of the Debt, including
11 Plaintiff's rights under federal law, as required by 15 U.S.C. § 1692g.

12
13 **C. Plaintiff Suffered Actual Damages**

14 25. The Plaintiff has suffered and continues to suffer actual damages as a result of
15 the Defendants' unlawful conduct.

16
17 26. As a direct consequence of the Defendants' acts, practices and conduct, the
18 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional
19 distress, fear, frustration and embarrassment.
20

21 **COUNT I**

22 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

23 **15 U.S.C. § 1692, et seq.**

24
25 27. The Plaintiff incorporates by reference all of the above paragraphs of this
26 Complaint as though fully stated herein.
27
28

1 28. The Defendants contacted the Plaintiff before 8:00 a.m. in violation of 15
2 U.S.C. § 1692c(a)(1).
3

4 29. The Defendants engaged in behavior the natural consequence of which was to
5 harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in
6 violation of 15 U.S.C. § 1692d.
7

8 30. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in
9 telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C.
10 § 1692d(5).
11

12 31. The Defendants used false, deceptive, or misleading representation or means in
13 connection with the collection of a debt, in violation of 15 U.S.C. § 1692e.
14

15 32. The Defendants threatened the Plaintiff with garnishment if the debt was not
16 paid, in violation of 15 U.S.C. § 1692e(4).
17

18 33. The Defendants used unfair and unconscionable means to collect a debt, in
19 violation of 15 U.S.C. § 1692f.
20

21 34. The Defendants failed to send Plaintiff an initial letter within five days of its
22 initial contact with Plaintiff as required by law, in violation of 15 U.S.C. § 1692g(a).
23

24 35. The foregoing acts and omissions of the Defendants constitute numerous and
25 multiple violations of the FDCPA, including every one of the above-cited provisions.
26

27 36. The Plaintiff is entitled to damages as a result of the Defendants' violations.
28

COUNT II

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –

47 U.S.C. § 227, et seq.

37. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

38. At all times mentioned herein, Defendants contacted Plaintiff on her various cellular telephone numbers using an automatic telephone dialing system (“ATDS”) and/or by using artificial or prerecorded messages in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

39. When Plaintiff answered the calls from Defendants, she often times heard an artificial and/or pre-recorded message from Defendants.

40. The various telephone numbers called by Defendants were assigned to cellular telephone services for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

41. Plaintiff never provided her cellular telephone numbers to Defendants or to the Creditor through any medium.

42. The calls from Defendants to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

43. Plaintiff never provided express consent to Defendants, the Creditor, or its agents to be contacted.

1 44. Plaintiff is informed and believes and thereon alleges that Defendants did not
2 have prior express consent to place calls to her cellular telephone.
3

4 45. In the alternative, even if Defendants at one time obtained prior express consent
5 to place calls to Plaintiff's cellular telephone, Defendants no longer had consent to call
6 Plaintiff after being informed by her that she had retained an attorney and after being
7 instructed by her to cease calling her cellular telephone.
8

9 46. Each of the aforementioned calls made by Defendants constitutes a negligent or
10 intentional violation of the TCPA, including each of the aforementioned provisions of
11 47 U.S.C. § 227, *et. seq.*
12

13 47. As a result of each of Defendants' negligent violations of the TCPA, Plaintiff is
14 entitled to an award of \$500.00 in statutory damages for each call in violation of the
15 TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).
16

17 48. As a result of each of Defendants' knowing and/or willful violations of the
18 TCPA, Plaintiff is entitled to an award of treble damages in an amount up to
19 \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. §
20 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
21
22

23 **PRAYER FOR RELIEF**

24 WHEREFORE, the Plaintiff prays that judgment be entered against the
25 Defendants as follows:
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1 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the
2 Defendants;

3
4 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C.
5 §1692k(a)(2)(A) against the Defendants;

6
7 C. Costs of litigation and reasonable attorneys' fees pursuant to
8 15 U.S.C. § 1692k(a)(3) against the Defendants;

9 D. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);

10 E. Actual damages from the Defendants for all damages, including
11 emotional distress suffered as a result of the intentional, reckless, and/or
12 negligent FDCPA and TCPA violations in an amount to be determined
13 at trial for the Plaintiff;

14
15 F. Punitive damages; and

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17 G. Such other and further relief as may be just and proper.
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19 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
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1 DATED: April 12, 2013

LEMBERG & ASSOCIATES, LLC

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3
4 By: /s/ Trinette G. Kent
5 Trinette G. Kent

6 Attorney for Plaintiff,
7 Patricia Wade
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